



ORDINANCE NO 5924

Vetoed
2/14/19

AN ORDINANCE AMENDING ORDINANCE NO 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS AND DECLARING AN EMERGENCY

WHEREAS, on October 15, 2018, the Albany Planning Commission held a public hearing and deliberated on proposed text amendments to the Albany Development Code relating to the siting and design of accessory dwelling units (City of Albany Planning Files DC-04-18 & DC-05-18), and

WHEREAS, on October 15, 2018, the Planning Commission recommended that the City Council approve the proposed text amendments with modifications as identified in the October 30, 2018, staff memorandum to City Council This recommendation was based on evidence presented in the staff report and consideration of public testimony during the public hearing, and

WHEREAS, the Albany City Council held public hearings on the proposal on November 7, 2018, and January 23, 2019, and reviewed the findings of fact and conclusions included in the staff report and testimony presented at the public hearing and then deliberated, and

WHEREAS, the text amendments to the Albany Development Code considered by the Planning Commission and City Council are presented as an attachment to this Ordinance as Exhibit A

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS

Section 1. The text of the Albany Development Code is hereby amended as shown in Exhibit A of this Ordinance

Section 2. A copy of this Ordinance shall be filed in the Office of the City Clerk of the City of Albany and these changes shall be made in the official City of Albany Development Code

Section 3. As applicable, a copy of this Ordinance shall be filed with the Linn and Benton County Assessors' Office within 90 days of the effective date of this Ordinance

Section 4 In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this ordinance shall take effect and be in full force and effect when signed by the Mayor

Passed by the Council February 13, 2019

Approved by the Mayor _____

Effective Date: _____

Mayor

VETO

ATTEST:

City Clerk

ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

- 3.10 Overview The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7. [Ord 5673, 6/27/07]

The list below is a summary of the topics covered in this article

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

ZONING DISTRICTS

- 3.20 Establishment of Residential Zoning Districts In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following residential zoning districts are established

- (1) RR—RESIDENTIAL RESERVE DISTRICT The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) RS-10—RESIDENTIAL SINGLE FAMILY DISTRICT The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum lot size is 10,000 square feet.
- (3) RS-6.5—RESIDENTIAL SINGLE FAMILY DISTRICT The RS-6.5 District is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.
- (4) RS-5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-5 District is intended primarily for low- to moderate-density single-family development. The average minimum detached single-family lot size is 5,000 square feet. [Ord. 5673, 6/27/07]
- (5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 25 units per gross acre. [Ord 5673, 6/27/07]
- (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT The RMA District is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre. [Ord 5673, 6/27/07]
- (7) HM—HACKLEMAN-MONTEITH DISTRICT The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed. [Ord 5555, 2/7/03; Ord 5673, 6/27/07]

- 3.030 Establishment of Special Purpose Districts Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district shall all apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more

Use Categories	Spec Cond.	RR	RS-10	RS-6 5	HM	RS-5	RM	RMA
OTHER CATEGORIES								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required

N = No, not allowed

CD = Cluster Development, see Art. 11

PD = Planned Unit Development, see Art 11

CU = Conditional Use approval required, Type III procedure

S = Site Plan Review required

CUII = Conditional Use approval required, Type II procedure

[Ord 5281, 3/26/97, Ord. 5555, 2/7/03, Ord. 5673, 6/27/07, Ord 5742, 7/14/10, Ord 5801, 2/13/13, Ord. 5832, 4/9/14, Ord 5886, 1/6/17]

3 060 – 3 070, Open Space district moved to Article 6, Ord 5764, 12/1/11

SPECIAL CONDITIONS

3 80 General Where numbers appear in the column labeled “special conditions” or in a cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction

- (1) In the RS-6 5, RS-5, and RS-10 Districts, one duplex is permitted outright on a corner lot that meets the minimum lot size for a duplex in the zone Exception for non-corner lots created between May 1, 2000 and January 11, 2006 A duplex is allowed on a non-corner lot created in this time period provided that the lot is at least 1 5 times the single-family minimum lot size in the zone The lot size threshold may be reduced by use of the 10 percent transportation bonus provided the lot is not a flag lot and it meets the standards in Section 3 220

[Ord 5445, 4/12/2000, Ord 5635, 1/11/06, Ord. 5673, 6/27/07]

- (2) When more than one single-family detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.

[Ord 5338, 1/28/98, Ord 5673, 6/27/07]

- (3) Duplexes and multi-family development may be divided so that each can be individually owned by doing a land division in conformance with Article 11 The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller

[Ord 5673, 6/27/07]

- (4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence” The ADU shall comply with the following standards.

(a) All ADUs.

- (i) Floor Area – An ADU shall not exceed 900 square feet of living space floor area or 75 percent of the primary residence living space floor area, whichever is less.

Living space floor area does not include garages or carports However, an ADU that results from the conversion of a level or floor (e g basement, attic or second story)

of the primary residence may occupy the entire level or floor, even if the floor area of the ADU would exceed 900 sq ft

- (ii) Parking - At least three off-street parking spaces shall be provided on the property to serve each set of residences (Primary and ADU). If available, one on-street parking space may count toward one required ADU parking space. To count toward a required parking space, the on-street space must abut the ADU property, shall be at least 25 feet long, and shall not obstruct any driveway or right-of-way
- (iii) Other Development Standards – All other applicable development standards including setbacks, lot coverage, and compliance with any overlay district requirements such as those in Article – 6 Natural Resource Districts and Article 7 – Historic Overlay District shall be met. The conversion of an existing, legal, non-conforming structure to an ADU is allowed provided the conversion does not increase any non-conformity.

(b) ADUs Interior or Attached to the Primary Residence

- (i) Front Door – The front door of the ADU shall not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence.
- (ii) Setback and Height Standards – Setback and height standards are the same as for the primary residence as provided in Table 1 – Residential District Development Standards

(c) Detached ADUs

- (i) Front Setback. The front setback shall be no less than the minimum front setback for the underlying zone in Table 1 – Residential District Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot
- (ii) Interior Setback. The interior setback shall be at least five feet for one- story buildings and eight feet for two- story buildings (See Table 2 – Accessory Structure Standards).
- (iii) Maximum Height 24 feet to the ridge of the roof _____

~~One accessory apartment is permitted per primary single family residence, called the "primary residence." The accessory apartment may be:~~

- ~~(a) An addition to or within the primary residence, OR~~
- ~~(b) In a detached building built before February 1, 1998, OR~~
- ~~(c) On a lot in a subdivision of at least ten lots, when the tentative plat was approved after July 1, 2007.~~

~~Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:~~

- ~~(a) One of the residences is owner occupied.~~
- ~~(b) The size of an accessory apartment does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less. (Note: Accessory apartments greater than 750 square feet that were legally constructed before July 1, 2007, may remain.)~~
- ~~(c) At least three off-street parking spaces are provided on the property to serve the two residences. [Ord. 5338, 1/28/98]~~
- ~~(d) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.~~
- ~~(e) The size of the property meets the minimum single family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]~~

~~Detached accessory apartment units must also meet the following development standards:~~

~~Front Setback: Greater than or equal to the location of the front wall of the primary residence; and~~

~~Interior Setback: 5 feet for one-story, 8 feet for two-story; and~~

~~Maximum Height: 24 feet to the ridge of the roof. [Ord. 5673, 6/27/07]~~

- (5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks
 - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development
- (6) "Child Care Homes" that includes the day or night time care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow single-family homes per the Oregon Revised Statutes (ORS) See ADC Section 22 200. [Ord. 5673, 6/27/07]
- (7) Bed and Breakfast facilities shall
 - (a) Be owner occupied
 - (b) Be limited to a maximum of four guest bedrooms
 - (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line [Ord. 5742, 7/14/10]
 - (d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long [Ord. 5673, 6/27/07, Ord. 5768, 12/7/11]

Affordable means that the annual mortgage payments, with no more than a 10% down payment required, or the annual rent for a unit equals no more than 28 percent of the income level for which the density bonus points are being applied. Projects must have a guaranteed sale price, interest, or rental price, and include contractual obligations for continued availability to low- and moderate-income persons

Alley Access

- (7) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone
[Ord 5338, 1/28/98, Ord 5445, 4/12/00]

SETBACKS

- 3.230 Setback Measurements All setbacks must meet the minimum standards as set forth in Tables 1 and 2 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all development must comply with Section 12 180, Clear Vision Area. See also Table 2, Accessory Structure Standards [Ord 5673, 6/27/07]

TABLE 2

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
All Accessory Structures	Front setback, see Table 1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
<u>Detached Accessory Apartment BuildingDwelling Unit</u>	<u>Front Setback</u> The front setback shall be no less than the minimum front setback for the underlying zone in Table 1 – Residential District Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot. Front setback is equal or greater than primary residencee Interior setback, one-story = 5 feet (1) Interior setback, two-story = 8 feet (1)
Garage or carport with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks=see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table 1, by zone, building permit required.
Outdoor swimming pools with depths greater than	Interior setback = 10 feet

ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

4 10 Overview The zones created in this article are intended to provide land for commercial, office and industrial uses. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city as a whole. Development may also be subject to the provisions in Article 8, Design Standards, Article 9, On-Site Development and Environmental Standards, and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions in Article 6, Special Purpose Districts, and Article 7, Historic Overlay Districts [Ord 5555, 2/7/03]

The following list is a summary of the topics covered in this article

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards
- Airport Approach Overlay District

ZONING DISTRICTS

4 20 Establishment of Commercial and Industrial Zoning Districts In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following commercial and industrial zoning districts are created

- (1) OP – OFFICE PROFESSIONAL DISTRICT The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.
- (2) NC – NEIGHBORHOOD COMMERCIAL DISTRICT. The NC district is intended primarily for small areas of retail establishments serving nearby residents' frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius.
- (3) CC – COMMUNITY COMMERCIAL DISTRICT The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.

**TABLE 4-1
SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions)	Spec Cond	OP	NC	CC	RC	TD	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation									
Indoor	7	N	N	S-7	S-7	S	S/CU-7	CUII-7	CU-7
Outdoor		N	N	S	S	N	N	CU-7, 11	CU
Offices		S	S	S	S	S	CUII-8	N	N
Traditional									
Industrial		S	N	S	N	N	S-8	S-9	S
Parking		N	N	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	S	N
Restaurants, no drive-thru w/ drive-thru or mostly delivery	25	CUII	S	S	S	S	S	N	N
		N	CU-10	S	S	N	CU	N	N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S/CU/N-11	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13
Taverns, Bars, Breweries, Nightclubs	25	CUII	CUII	S	S	S	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick-gas/oil/wash		N	N	S	S	N	CU	N-14	N
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	N	N	N	N	N
Home Businesses (see 3 090-3 180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family and Two Family Units	20	Y/CU-19	S	N	N	N	N	N	N
Three or More Units		CU	N	N	N	N	N	N	N

Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
Units Above or Attached to a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N
OTHER CATEGORIES									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft	23	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Non-Res I Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan Review required

N = No, not allowed

CU = Conditional Use review, Type III procedure

S = Site Plan Review required

CUII = Conditional Use review, Type II procedure

[Ord 5555, 2/7/03, Ord 5728, 1/27/10, Ord 5742, 7/14/10, Ord 5767, 12/7/11, Ord. 5832, 4/9/14, Ord 5886, 1/6/17]

SPECIAL CONDITIONS

4 60 General. Where numbers appear in the “Special Conditions” column or in a particular cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction

(1) Contractors and Industrial Services in the CC, TD, IP and LI zones

(a) Limited Uses Salvage or wrecking operations are prohibited in the CC, TD, IP, and LI zones See Section 4 290 for outside storage standards

(2) Manufacturing and Production The environmental performance standards of Article 9 may limit the placement of certain uses in some districts If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval

(3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.

(4) Waste and Recycling Related Uses in the CC, LI, and HI zones

(a) Limited uses in CC Only processing and sorting operations conducted within enclosed structures less than 5,000 sq ft in total area are considered with a conditional use review

(b) Limited uses in LI Processing and sorting operations conducted within enclosed structures less than 5,000 sq ft in total area are allowed with Site Plan Review Salvage yards, junkyards, and refuse transfer stations are not permitted All other material and recycling operations are considered through a conditional use review

(c) Limited uses in HI Processing and sorting operations conducted within enclosed structures less than 5,000 sq ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a conditional use review

(5) Wholesale Sales in the IP zone This use is allowed in IP only if all operations and storage are conducted entirely within enclosed buildings

tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks

- (18) Non-Residential Accessory Buildings over 750 square feet in the OP zone require Site Plan Review [Ord. 5742, 7/14/10]
- (19) Single-Family and Two-Family Units in the OP zone. Single-family residences are allowed outright. Attached single-family and two-family residences require a conditional use review One accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the "primary residence" The ADU shall comply with the standards for ADUs in ADC 5.070(15)
[Ord 5742, 7/14/10]
- (20) Existing Single-Family Homes Single-family homes built before December 11, 2002, in any commercial or industrial zone may remain as a permitted use without being nonconforming New single-family homes are not permitted unless allowed in the zoning district See Section 4 075 Single-family includes attached units, one unit per lot
- (21) Residential Accessory Buildings, except Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions
- (a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 11 feet tall
 - (b) All other residential district accessory buildings, garages or carports require a site plan review [Ord 5767, 12/7/11]
- (22) Agriculture All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6 [Ord 5742, 7/14/10]
- (23) Communication Facility Placement Standards Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8 500 [Ord. 5886, 1/6/17]

Placement of antennas, satellite dish antennas, and monopoles less than 50 feet tall when measured from the ground, or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards

- (a) Antennas or antenna supports Satellite dishes and monopoles shall not be located within any front yard setback area or within any required landscape buffer yard. [Ord 5886, 1/6/17]
- (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping
- (c) Antennas used to display sign messages shall conform to all district sign regulations in

ARTICLE 5 MIXED USE ZONING DISTRICTS

5.000 Purpose This article is intended to define the character of Albany's mixed-use zoning districts. The mixed-use zones implement the concepts identified in the Balanced Development Patterns Project (2001) and the Town Center Plan (Central Albany Land Use and Transportation Study, CALUTS, 1996). These zoning districts are compatible with the Village Center Comprehensive Plan designation applied in the Central Albany area, North Albany, east of Interstate 5 on Knox Butte Road, and south of Oak Creek near Highway 99E (Pacific Boulevard). The mixed-use zones may be applied outside of the Village Center plan designation. [Ord 5555, 2/7/03]

5.20 Overview. The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center or mixed-use area. The mixed-use zones differ in permitted uses, development standards, and design based on the unique objectives of each area. Design standards may be adopted to define the unique architectural and streetscape features of each area. [Ord 5894, 10/14/17]

Development may also be subject to the provisions in Article 8, Design Standards; Article 9, On-Site Development and Environmental Standards, and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions of Article 6, Special Purpose Districts, and Article 7, Historic Overlay Districts.

The list below is a summary of the topics covered in this article:

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord 5673, 6/27/07]

ZONING DISTRICTS

5.30 Establishment of Mixed Use Zoning Districts In order to implement the mixed-use and livability concepts in the Town Center and Albany Comprehensive Plans, the following zoning districts are created.

- (1) HD – HISTORIC DOWNTOWN DISTRICT The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses. [Ord. 5894, 10/14/17]
- (2) DMU – DOWNTOWN MIXED USE DISTRICT The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged. [Ord. 5894, 10/14/17]
- (3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses. [Ord 5894, 10/14/17]
- (4) MUR – MIXED USE RESIDENTIAL DISTRICT The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord 5673, 6/27/07]

A number appearing opposite a use in the "special conditions" column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). These conditions are found following the schedule in Section 5 070 [Ord 5555, 2/7/03, Ord 5673, 6/27/07]

**TABLE 5-1
SCHEDULE OF PERMITTED USES**

Use Categories (See Article 22 for use category descriptions)	Spec Cond	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
INDUSTRIAL											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N / CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq ft -5,000 to 10,000 sq ft	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-5 CU	S-5/ CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU N
Offices Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S / CUII (25)	S / CUII (25)	S	S	CUII	CU	CUII
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N

Use Categories (See Article 22 for use category descriptions)	Spec. Cond	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Single Family and Two Family Units	15	Y-17	S/CU-16	N/Y-16	S/CU-16	S/CU-16	N-16	N	N-16	CU-16	Y
Three or More Units	17	S-17	S/CU-17	N	S/CU-17	S/CU-17	S	N	CU	CU	S
Units Above or Attached to a Business		S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3 090-3 180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/ CUII	Y/ CUII	Y/S
OTHER CATEGORIES											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq ft		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

Y = Yes, allowed, no Site Plan review required
 CU = Conditional Use review required, Type III procedure
 CUII = Conditional Use review required, Type II procedure

N = No, not allowed
 S = Site Plan Review required

[Schedule of Uses amended by Ord 5555, 2/7/03, Ord 5556, 2/21/03, Ord 5635, 1/11/06, Ord 5673, 6/27/07, Ord 5728, 1/27/10, Ord 5742, 7/14/10, Ord 5767, 12/7/11, Ord 5832, 4/9/14, Ord 5886, 1/6/17, Ord 5894, 10/14/17]

An educational institution having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children [Ord 5673, 6/27/07]

- (13) Public park development activity subject to conditional use review includes major development, expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.
- (14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-family residences [Ord 5673, 6/27/07; Ord 5742, 7/14/10]
- (15) Existing Single- and Two-Family. Single-family and two-family units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5 080 [Ord 5673, 6/27/07]

Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence” The ADU shall comply with the following standards.

(a) All ADUs.

- (i) Floor Area – An ADU shall not exceed 900 square feet of living space floor area or 75 percent of the primary residence living space floor area, whichever is less. Living space floor area does not include garages or carports. However, an ADU that results from the conversion of a level or floor (e.g. basement, attic or second story) of the primary residence may occupy the entire level or floor, even if the floor area of the ADU would exceed 900 square feet.
- (ii) Front Door – The front door of the ADU shall not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence.

(iii) Parking - At least three off-street parking spaces shall be provided on the property to serve each set of residences (Primary and ADU). If available, one on-street parking space may count toward one required ADU off-street parking space. To count toward a required parking space, the on-street space must abut the ADU property, shall be at least 25-feet long, and shall not obstruct any driveway or right-of-way.

(iv) Other Development Standards – All other applicable development standards including setbacks, lot coverage, and compliance with any overlay district requirements such as those in Article – 6 Natural Resource Districts and Article 7 – Historic Overlay District shall be met. The conversion of an existing legal non-conforming structure to an ADU is allowed provided the conversion does not increase any non-conformity -

(b) ADUs Interior or Attached to the Primary Residence:

i Front Door – The front door of the ADU shall not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front façade of the primary residence.

ii. Exterior additions must substantially match the existing materials, colors, and finish of the primary structure

iii Setback and Height Standards – Setback and height standards are the same as for the primary residence as provided in Table 5-2. Mixed Use Village Center Development Standards

(c) Detached ADUs

i Front Setback: The front setback shall be no less than the minimum front setback for the underlying zone in Table 5-2. Mixed Use Village Center Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary

residence, or one of the front walls of the primary residence if on a corner lot

†ii Interior Setback. The interior setback shall be as provided in Table 5-3 Accessory Structure Standards

iii Height Height standards are the same as for the primary residence as provided in Table 5-2. Mixed Use Village Center Development Standards

~~Accessory Apartments. One accessory apartment is permitted per single-family residence on a property. The single-family residence is referred to as the "primary residence" below.~~

~~The accessory apartment may be:~~

- ~~An addition to or within the primary residence; OR~~
- ~~In a detached building built before February 1, 1998; OR~~
- ~~On a lot in a subdivision of at least 10 lots, when the tentative plat was approved after July 1, 2007.~~

~~Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:~~

- ~~(a) One of the residences is owner-occupied.~~
- ~~(b) The size of an accessory apartment may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less.~~
- ~~(c) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.~~
- ~~(d) The front door of an accessory apartment may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the apartment front door is set back at least five feet from the front façade of the primary residence.~~
- ~~(e) At least three off-street parking spaces are provided on the property to serve the two residences.~~
- ~~(f) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.~~
- ~~(g) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.~~
- ~~(h) The front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07]~~

(16) Single-Family and Two-Family Units

- (b) Limited Uses in DMU, CB, ES, LE, and WF New construction of single-family units is limited to attached units (one unit per lot or condominiums) and two-family units (a duplex)
[Ord 5742, 7/14/10, Ord 5894, 10/14/17]

SETBACKS

5 100 Minimum Standards Primary structures must meet the minimum setback standards in Table 5-2, Development Standards In addition to the setbacks in this Article, all development must comply with Section 12 180, Clear Vision Area

The Accessory Structure Standards (Table 5-3) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts [Ord 5555, 2/7/03, Ord 5556, 2/21/03]

**TABLE 5-3
ACCESSORY STRUCTURE STANDARDS**

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 5-2 for minimum front setbacks
Detached, walls less than or equal to 8 ft. tall	Interior setback = 3 feet
Detached, walls greater than 8 ft. tall	Interior setback = 5 feet
Attached structure	Interior setback = 5 feet
<u>Detached Accessory Dwelling Unit</u>	<u>Front Setback. The front setback shall be no less than the minimum front setback for the underlying zone in Table 5-2, Mixed Use Village Center Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot.</u> <u>Interior Setback, walls less than or equal to 8 feet tall = 3 feet</u> <u>Interior setback, walls greater than 8 feet tall = 5 feet</u>
Garage with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks, see Table 5-2
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences more than 6 ft high	District setback standard, building permit required
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than 30 in off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in off grade	Interior setback = 5 feet

[Ord 5445, 4/12/00, Ord 5673, 6/27/07, Ord 5894, 10/14/17]

5 110 Measurements Setback distances must be measured perpendicular to all portions of a lot line

5 115 Special interior setbacks In order to provide compatible transitions to residential zones and uses and to historic buildings, additional interior setbacks are required as follows [Ord 5894, 10/14/17]

- (1) Special interior setbacks in all Mixed Use Zones except HD, DMU, CB, and WF. Commercial or office buildings abutting residential districts and/or uses require one foot of setback for each foot of wall height with a minimum setback of ten feet For developments abutting commercial or industrial districts, no interior setback is required. [Ord 5894, 10/14/17]
- (2) Special interior setbacks in the HD, DMU, CB and WF zoning districts New buildings and

ARTICLE 8 DESIGN STANDARDS

8 1 Overview The purpose of this Article is to establish additional standards for certain uses. These standards are intended to reduce adverse effects on surrounding property owners and the general public, to create a business environment that is safe and comfortable, to further energy conservation efforts within the City, to enhance the environment for walking, cycling, and mass transit use, and to ensure that high-quality development is maintained throughout Albany

The following list is a summary of the topics covered in this article

- Single-Family Homes
- Multiple Family Development
- Commercial and Institutional Site Design
- Supplemental Standards in Village Centers
- Telecommunications Facilities
- Supplemental Design Standards for the Oak Creek Transition Area
[Ord. 5445, 4/12/00, Ord 5801, 2/13/13, Ord 5832, 4/9/14]

SINGLE-FAMILY HOMES

8 100 Purpose The design standards for single-family homes are intended to create pedestrian-friendly, sociable, safe and attractive neighborhoods through human-scale design. These standards emphasize the functional relationship between the home and the street. Compatibility standards protect the architectural character of existing neighborhoods. These design standards are adaptable to many different architectural styles [Ord 5445, 4/12/00]

8 110 Applicability

- (1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-family detached units, manufactured homes, two-family units (duplexes), and single family attached units on individual lots in all zones that allow single-family housing, except as otherwise noted [Ord 5894, 10/14/17]
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8 110 through 8 160 apply to multifamily units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17) [Ord 5894, 10/14/17]
- (3) These standards do not apply to detached accessory dwelling units, existing structures, ~~to~~ new additions to existing structures, or to manufactured home parks [Ord. 5894, 10/14/17]
- (4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards [Ord 5445, 4/12/00, Ord 5894, 10/14/17]

8 120 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions in Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility [Ord 5445, 4/12/00, Ord 5894, 10/14/17]

ARTICLE 22 USE CATEGORIES AND DEFINITIONS

The following is a list of content in this article

- | | | |
|---|------------------------------|-----------------|
| ■ | Use Categories | 22 030 – 22 370 |
| ■ | Definitions | 22 400 |
| ■ | Natural Resource Definitions | 22 500 |

USE CATEGORIES

[Use Categories in Sections 22 010 – 22 370 added by Ord 5555, 2/7/03]

22 010 Introduction to the Use Categories This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the zoning district purpose statements.

The Schedules of Permitted Uses (by zoning district), special conditions and the development standards are located in Article 3, Residential Zoning Districts, Article 4, Commercial and Industrial Zoning Districts, and Article 5, Mixed Use Village Center Zoning Districts. The environmental performance standards in Article 9, On-site Development and Environmental Standards, may limit the placement of certain uses in some zoning districts.

INDUSTRIAL USE CATEGORIES

- 22 030 Contractors and Industrial Services
- 22 040 Manufacturing and Production
- 22 045 Small-scale Manufacturing
- 22 050 Railroad Yards
- 22 060 Warehousing and Distribution
- 22 070 Waste and Recycling Related
- 22 080 Wholesale Sales

COMMERCIAL USE CATEGORIES

- 22 090 Adult Entertainment
- 22 100 Entertainment and Recreation, Indoor and Outdoor
- 22 110 Offices
- 22 120 Parking Facility
- 22 125 Recreational Vehicle Park
- 22 130 Restaurants
- 22 140 Retail Sales and Service
- 22 150 Self-Serve Storage
- 22 155 Taverns, Bars, Breweries and Night Clubs
- 22 160 Vehicle Repair
- 22 170 Vehicle Service, Quick

INSTITUTIONAL USE CATEGORIES

- 22 180 Basic Utilities
- 22 190 Community Services
- 22 200 Daycare Facility
- 22 210 Educational Institutions
- 22 220 Hospitals
- 22 230 Jails and Detention Facilities
- 22 240 Parks, Open Areas and Cemeteries
- 22 250 Religious Institutions

- (3) *Accessory Uses* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) *Exceptions*
- (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) Single-room occupancy situations where care is provided are classified as a Group or Residential Care Home or Residential Care or Treatment Facility [Ord 5801, 2/13/13]
 - (c) Dwelling units located above, behind or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business [Ord 5894, 10/14/17]

22.310 Unit(s) Above or Attached to a Business

- (1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage [Ord 5742, 7/14/10]
- (2) *Use Examples* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business
- (3) *Exceptions*
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) SROs that contain programs that include common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility
 - (c) Live/work dwelling units in which the dwelling unit and the business are internally connected without passing through a common area are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories [Ord 5894, 10/14/17]

22.320 Residential Accessory Buildings

- (1) A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards
 - (a) Detached residential accessory buildings (other than Accessory Dwelling Units, which are addressed below), garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through site plan review, refer to the following standards
 - In residential zoning districts in Article 3, refer to Section 3.080(9).
 - In commercial or industrial zones in Article 4, refer to Section 4.060(21).
 - In mixed-use zones in Article 5, refer to Section 5.070(18).
 - (b) Accessory Dwelling Units ~~apartments~~ have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) respectfully [Ord 5742, 7/14/10]

DEFINITIONS

22.400 Definitions As used in this Code, the following words and phrases shall have the following meanings

Abut Contiguous to, for example, two lots with a common property line. However, “abut” does not apply to buildings, uses, or properties separated by public right-of-way.

Access The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking area.

Accessory Apartment Dwelling Unit A self-contained living unit that is attached to or ~~a part of interior to the primary~~ a single-family dwelling, ~~a detached structure, or in a portion of constructed within a detached accessory structure (e.g. above a garage or workshop) built before February 1, 1998, or constructed in a subdivision platted after July 1, 2007, and~~ that is incidental and subordinate to the principal dwelling unit (primary residence) [Ord 5338, 1/28/98; Ord 5801, 2/13/13]

Accessory Building A detached building or set of buildings that is subordinate in size and purpose to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s) [Ord 5742, 7/14/10]

Accessory Use A use on the same property or development site under the same ownership that is customarily incidental, subordinate to, and compatible with the principal use and surrounding properties [Ord 5742, 7/14/10]

Access Way An unobstructed drive or roadway that provides vehicular access and connects to a public street.

Adjacent Contiguous to a property boundary or across an adjoining right-of-way.

Adult Entertainment Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse. Such uses include but are not limited to, adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments that have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

Affected Party Any person who owns property or resides on property within the notification area for a development permit application, or any person who provides written or oral testimony in regard to a development permit application and who can demonstrate standing by virtue of an affected property interest.

Alley A public way not over 30 feet wide that provides a secondary means of access to private property. An alley is not considered a “street” as used in this Code [Ord 5742, 7/14/10]

Alter, Alteration Any human-induced physical change to the existing condition or occupancy of a building or structure, or to land including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction.

Amendment A change in the wording, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

Amenity A natural or created feature that enhances the aesthetic, functional or visual quality or makes a particular property a more attractive or appealing place or area. [Ord 5742, 7/14/10]

RECEIVED

February 14, 2018

FEB 14 2019

Initial: _____

I hereby veto Ordinance No. _____ —Accessory Dwelling Units and the following is my explanation for my decision:

To this day I have not heard one substantial reason to lessen our existing rules for ADU's. I base my decision by the citizens who actually live in our neighborhoods and not by who has a financial gain in this matter.

Accessory Dwelling Units

Councilors we have been divided on this issue regarding accessory dwelling units (ADU) and a compromise is needed.

We can acknowledge some councilors are on one side of the teeter-totter with the staff proposal of increasing the footprint, removing the parking requirement and not requiring an ADU to be owner-occupied. The other councilors are on the side of not wanting ADU's at all or smaller footprint, plus owner-occupied. However, I reluctantly support the state required (ADUs) in all existing single-family zoning, so I believe the compromise and middle of the teeter-totter is the current standards with the changes to comply with state law.

I do not feel detached ADU's are a solution to the lack of low-income housing and the state has placed a burden on local governments in dealing with the unintended consequences. There is no guarantee an ADU would serve a low-income tenant or mother-in-law unit, which is the intent of the state requirement with their attempt to address affordable housing. An owner of an ADU can intentionally set the rent higher than the cap of a HUD housing voucher to prevent serving people with lower incomes. Also, with fair housing laws you cannot limit how many family members can live in a rental, as long as if there is ingress and egress inside the unit. The more people living on a property could be more vehicles on the street.

If single-family neighborhoods start transforming into multi-family housing, this could put the demand for sprawl with more single-family neighborhoods being designed to not support an ADU. The demand for this design of new neighborhoods will be the result from residents wanting to continue living in a single-family neighborhood, a housing choice that residents have been able to make since the founding of our hometown and communities across the nation. Albany's oldest neighborhood is single family homes.

The compromise for the size of an ADU is with the existing code of 750 sq. ft. The staff proposal of 900 sq ft is supported by some councilors and some members want ADU's to be smaller than our current 750 sq. ft. The size increase to 900 sq. ft. is basically adding an additional bedroom to an ADU. As I have stated before, the more bedrooms could be more vehicles on the street, which can impact the neighbors of the

ADU. An ADU can also have an attached garage, so the footprint could be larger than 900 sq ft.

The staff proposed ordinance removes the current parking requirements of one off-street parking space for an ADU by allowing on-street parking, if there is enough street frontage. This promotes parking wars in our neighborhoods. We already have enough parking challenges in some existing neighborhoods, so why add more? A one-bedroom apartment complex requires one parking space, so why allow ADU's to be less? The compromise is to retain one off street parking space for the 750 sq ft ADU to be consistent with our requirements for apartments.

Changing our existing code for square footage could be conceived as picking a number out of a hat. By increasing the size opens the door for increases by future councils. I don't believe this is good policy and we as decision makers should strive to prevent neighborhood conflicts. If we find in the future the building size or parking should be changed, then a council can change the requirement. Right now, there is no rush to allow above the current standards as there are too many unknown outcomes with this new legislative ruling.

One councilor's reason to support the staff proposed ADU changes was they didn't think we would see very many ADU's built. I hope we can strive for a better reason to change our policy then "oh well, we will see what happens". This type of decision making could be similar to allowing a pig farm in the city because there wouldn't be many people wanting to raise pigs. In my opinion that is not good policy

making. Also, that reason to support ADU's in thinking there will not be many built is basically acknowledging there could be future conflicts, but oh well it is not in my back yard.

Another concern I heard was this was someone's own property rights and they should be able to do as they choose. If all decision makers set policy on allowing property owners to do as they choose, then imagine what this world would be like. I have always said what one property owner does to their property can affect the property values and livability of their neighbors. Since the founding of our own community the codes are built upon for everyone to get along and to enjoy the peacefulness of our community.

Another piece of the proposed ordinance is allowing ADU's to not be owner-occupied. This opens a Pandora's Box as investors buying a house for a rental in knowing they can maximize their profit by adding an ADU for another rental. Those investors might not even live in our community, but they could be transforming many single-family neighborhoods in to multi-family. We have strived in our community to build great neighborhoods and ADU's go against that objective and goal in our own strategic plan.

This compromise does not prevent today an ADU or mother in law unit to be built, as ADU's are in our code already as owner-occupied.

A question was raised about enforcing an owner-occupied ADU. All changes in use, codes and conditions for approval

are recorded on the county's tax account and summary for existing properties. So, anyone wanting to buy a property have the avenues to be informed of the rule for an ADU and a neighbor can always seek the information on-line if there is a problem with an ADU in their neighborhood. This is no different than the recording of a property with a conditional use permit.

I would rather support the state in requiring ADU's in new developments, so they can plan for the infrastructure to support the density. Adding density to existing older neighborhoods with aging infrastructure only puts a demand for an unplanned upgrade to our system in the future.

We are elected to build a livable community for our residents to enjoy the peacefulness of their homes that they have invested in. I feel this compromise lessens the impacts to existing neighborhoods and protects their investments. Remember changes can be made in the future, but challenges can arise if you change later by reducing the rules. This compromise does not bring on challenges.

Councilors we have been mulling over this issue and our existing rules for ADU's is the middle ground. As you can see, some of you have not budged on the one-side of the ordinance and some have not on the other side. This is the middle of the road for the compromise, which is in front of you and I please ask for your support, so we can put this issue to rest.


Sharon Konopa, Mayor of Albany